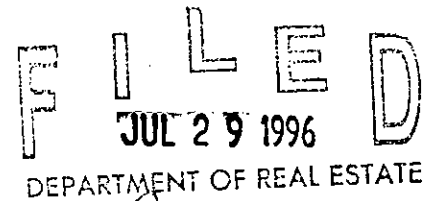


1 Department of Real Estate
P. O. Box 187000
2 Sacramento, CA 95818-7000
3 Telephone: (916) 227-0789
4
5
6
7



8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA
10

* * *

11	In the Matter of the Accusation of)	NO. H-7278 SF
12	ALEX TRAN,)	<u>STIPULATION AND</u>
13	Respondent.)	<u>AGREEMENT IN</u>
14	_____)	<u>SETTLEMENT AND ORDER</u>

15 It is hereby stipulated by and between Respondent ALEX
16 TRAN (hereinafter "TRAN" or "Respondent"), individually and by and
17 through Frank H. Russow, Esq., Respondent's attorney of record
18 herein, and the Complainant, acting by and through James L.
19 Beaver, Counsel for the Department of Real Estate, as follows, for
20 the purpose of settling and disposing of the Accusation filed on
21 August 9, 1995 in this matter (hereinafter "the Accusation").

22 1. All issues which were to be contested and all
23 evidence which was to be presented by Complainant and Respondent
24 at a formal hearing on the Accusation, which hearing was to be
25 held in accordance with the provisions of the Administrative
26 Procedure Act (APA), shall instead and in place thereof be
27 ///

1 submitted solely on the basis of the provisions of this
2 Stipulation.

3 2. Respondent has received, read and understands the
4 Statement to Respondent, the Discovery Provisions of the APA and
5 the Accusation filed by the Department of Real Estate in this
6 proceeding.

7 3. On August 25, 1995, pursuant to Section 11505 of
8 the Government Code, Respondent filed a Notice of Defense for the
9 purpose of requesting a hearing on the allegations in the
10 Accusation. Respondent hereby freely and voluntarily withdraws
11 said Notice of Defense. Respondent acknowledges that Respondent
12 understands that by withdrawing said Notice of Defense Respondent
13 waives Respondent's right to require the Commissioner to prove the
14 allegations in the Accusation at a contested hearing held in
15 accordance with the provisions of the APA and that Respondent
16 waives other rights afforded to Respondent in connection with the
17 hearing such as the right to present evidence in defense of the
18 allegations in the Accusation and the right to cross-examine
19 witnesses.

20 4. Respondent, subject to the limitations set forth
21 below, hereby admits that the factual allegations in the
22 Accusation are true and correct, agrees that the Real Estate
23 Commissioner may base his decision herein on the allegations of
24 the Accusation, and agrees that the Real Estate Commissioner shall
25 not be required to provide further evidence to prove such
26 allegations.

27 ///



1 5. It is understood by the parties that the Real
2 Estate Commissioner may adopt the Stipulation and Agreement as his
3 decision in this matter thereby imposing the penalty and sanctions
4 on Respondent's real estate license and license rights as set
5 forth in the "Order" set forth below. In the event that the
6 Commissioner in his discretion does not adopt the Stipulation and
7 the Agreement in Settlement, this Agreement shall be void and of
8 no effect, and Respondent shall retain the right to a hearing and
9 proceeding on the Accusation under all the provisions of the APA
10 and shall not be bound by any admission or waiver made herein.

11 6. The Order or any subsequent Order of the Real
12 Estate Commissioner made pursuant to this Stipulation and
13 Agreement in Settlement shall not constitute an estoppel, merger
14 or bar to any further administrative or civil proceedings by the
15 Department of Real Estate with respect to any matters which were
16 not specifically alleged to be causes for accusation in this
17 proceeding.

18 DETERMINATION OF ISSUES

19 By reason of the foregoing stipulations, agreements and
20 waivers and solely for the purpose of settlement of the pending
21 Accusation without a hearing, it is stipulated and agreed that the
22 following determination of issues shall be made:

23 I

24 The acts and omissions of Respondent described in the
25 Accusation constitute fraud or dishonest dealing and are cause
26 under Section 10177(j) of the California Business and Professions
27 Code for the suspension or revocation of all licenses and/or



1 license rights of Respondent under the Real Estate Law (Part 1 of
2 Division 4 of the California Business and Professions Code).

3 ORDER

4 All licenses and licensing rights of Respondent ALEX
5 TRAN under the Real Estate Law are revoked; provided, however, a
6 restricted real estate salesperson license shall be issued to
7 Respondent pursuant to Section 10156.5 of the Business and
8 Professions Code if Respondent makes application therefor and pays
9 to the Department of Real Estate the appropriate fee for the
10 restricted license within ninety (90) days from the effective date
11 of this Decision. The restricted license issued to Respondent
12 shall be subject to all of the provisions of Section 10156.7 of
13 the Business and Professions Code and to the following
14 limitations, conditions and restrictions imposed under authority
15 of Section 10156.6 of that Code:

16 1. The restricted license issued to Respondent may be
17 suspended prior to hearing by Order of the Real Estate
18 Commissioner in the event of Respondent's conviction or plea of
19 nolo contendere to a crime which is substantially related to
20 Respondent's fitness or capacity as a real estate licensee.

21 2. The restricted license issued to Respondent may be
22 suspended prior to hearing by Order of the Real Estate
23 Commissioner on evidence satisfactory to the Commissioner that
24 Respondent has violated provisions of the California Real Estate
25 Law, the Subdivided Lands Law, Regulations of the Real Estate
26 Commissioner or conditions attaching to the restricted license.

27 ///



1 3. Respondent shall not be eligible to apply for the
2 issuance of an unrestricted real estate license nor for the
3 removal of any of the conditions, limitations or restrictions of a
4 restricted license until three (3) years have elapsed from the
5 effective date of this Decision:

6 4. Respondent shall submit with any application for
7 license under an employing broker, or any application for transfer
8 to a new employing broker, a statement signed by the prospective
9 employing real estate broker on a form approved by the Department
10 of Real Estate which shall certify:

11 (a) That the employing broker has read the Decision of
12 the Commissioner which granted the right to a restricted
13 license; and

14 (b) That the employing broker will exercise close
15 supervision over the performance by the restricted
16 licensee relating to activities for which a real estate
17 license is required.

18 5. Respondent shall, within nine (9) months from the
19 effective date of the Decision, present evidence satisfactory to
20 the Real Estate Commissioner that Respondent has, since the most
21 recent issuance of an original or renewal real estate license,
22 taken and successfully completed the continuing education
23 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
24 for renewal of a real estate license. If Respondent fails to
25 satisfy this condition, the Commissioner may order the suspension
26 of the restricted license until the Respondent presents such
27 evidence. The Commissioner shall afford Respondent the

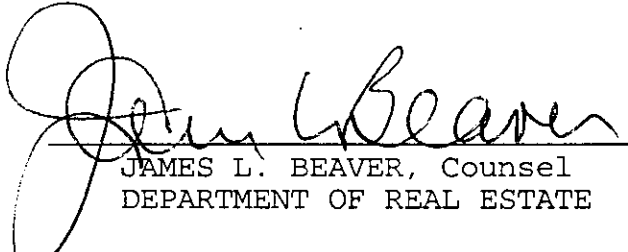


1 opportunity for a hearing pursuant to the Administrative Procedure
2 Act to present such evidence.

3 6. Respondent shall, within six (6) months from the
4 issuance of the restricted license, take and pass the Professional
5 Responsibility Examination administered by the Department
6 including the payment of the appropriate examination fee. If
7 Respondent fails to satisfy this condition, the Commissioner may
8 order suspension of Respondent's license until Respondent passes
9 the examination.

10 7. Any restricted real estate salesperson license
11 issued to Respondent may be suspended or revoked for a violation
12 by Respondent of any of the conditions attaching to the restricted
13 license.

14 June 21, 1996
15 DATED
16


JAMES L. BEAVER, Counsel
DEPARTMENT OF REAL ESTATE
* * *

17
18 I have read the Stipulation and Agreement, have
19 discussed it with my attorney, and its terms are understood by me
20 and are agreeable and acceptable to me. I understand that I am
21 waiving rights given to me by the California Administrative
22 Procedure Act (including but not limited to Sections 11506,
23 11508, 11509, and 11513 of the Government Code), and I willingly,
24 intelligently, and voluntarily waive those rights, including the
25 right of requiring the Commissioner to prove the allegations in
26 the Accusation at a hearing at which I would have the right to
27 ///

1 cross-examine witnesses against me and to present evidence in
2 defense and mitigation of the charges.

3

4

JUNE - 10 - 1996

DATED

Alex Tran

ALEX TRAN
Respondent

5

6

7

I have reviewed the Stipulation and Agreement as to
form and content and have advised my client accordingly.

8

9

JUNE 11, 1996

DATED

FRANK H. RUSSOW by

FRANK H. RUSSOW
Attorney for Respondent

10

11

* * *

12

13

The foregoing Stipulation and Agreement for Settlement
is hereby adopted by the Real Estate Commissioner as his Decision

14

and Order and shall become effective at 12 o'clock noon on

15

August 19, 1996.

16

IT IS SO ORDERED 7/23, 1996.

17

JIM ANTT, JR.
Real Estate Commissioner

18

19

20

21

22

23

24

25

26

27



COPY

Alleg. Sac
FILED
SEP 14 1995

**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

ALEX TRAN,

By *Victoria Dillon*

Case No. H-7278 SF **Victoria Dillon**

OAH No. N 9509006

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at _____
OFFICE OF ADMINISTRATIVE HEARINGS, World Savings Tower
1970 Broadway, Second Floor, Oakland, CA 94612

on Wednesday, May 22, 1996 (4 hrs. hearing), at the hour of 9:00 a.m.
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

Dated: September 14, 1995

DEPARTMENT OF REAL ESTATE

By *Susan M. Rossi*

SUSAN M. ROSSI,

Counsel

COPY

Theresa

SUSAN M. ROSSI, Counsel
Department of Real Estate
185 Berry Street, Room 3400
Sacramento, CA 94107

FILED
AUG 09 1995

Telephone: (415) 904-5917

DEPARTMENT OF REAL ESTATE

By *Victoria Dillon*
Victoria Dillon

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
ALEX TRAN,)
Respondent.)

No. H- 7278 SF

ACCUSATION

The Complainant, Les R. Bettencourt, a Deputy Real Estate Commissioner of the State of California for cause of Accusation against ALEX TRAN (hereinafter "Respondent") is informed and alleges as follows:

I

The Complainant, Les R. Bettencourt, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in his official capacity and not otherwise.

II

Respondent is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (hereinafter "Code") as a real estate broker.

III

1 On or about March 7, 1995, in connection with
2 Respondent's refinance of real property commonly known as
3 852 Tramway Drive, Milpitas, California (hereinafter "Milpitas
4 Property"), Respondent submitted and/or caused to be submitted
5 false and misleading information to Great Western Bank,
6 (hereinafter "Great Western"), in order to induce Great Western to
7 make a loan to Respondent for the refinance of the Milpitas
8 Property. This information included, among other things:

9 A. That Respondent had an adjusted gross income of
10 \$84,411.00 for 1992 and that said adjusted gross income was
11 reported to the Internal Revenue Service in Respondent's 1992
12 Income Tax Return;

13 B. That Respondent had an adjusted gross income of
14 \$87,309.00 for 1993 and that said adjusted gross income was
15 reported to the Internal Revenue Service in Respondent's 1993
16 Income Tax Return; and

17 C. That Respondent's address of employment, a real
18 estate brokerage firm owned by him, ("International Real Estate
19 Resources"), was located at 500 E. Calaveras Blvd., Milpitas, CA.

20 IV

21 Respondent knew or should have known that the
22 information he submitted and/or caused to be submitted to Great
23 Western was false and misleading when made or was made by
24 Respondent with no reasonable grounds for believing said
25 representations to be true. In truth and in fact:

26 ///

27 ///

1 A. Respondent did not have a 1992 tax return submitted
2 to the Internal Revenue Service, and Respondent's adjusted gross
3 income for 1992 was approximately \$33,023.00;

4 B. Respondent did not have a 1993 tax return submitted
5 to the Internal Revenue Service, and Respondent's adjusted gross
6 income for 1993 was approximately \$40,540.00; and

7 C. Respondent's business address was 852 Tramway Drive,
8 Milpitas, CA.

9 VI

10 The acts and omissions of Respondent set forth above
11 constitute fraud or dishonest dealing and are cause under Section
12 10177(j) of the Code for the suspension or revocation of all
13 licenses and/or license rights of Respondent under the Real Estate
14 Law.

15 PRIOR DISCIPLINARY ACTION

16 On or about November 12, 1987, effective December 7,
17 1987, in Case No. H-5799 SF, the Real Estate Commissioner revoked
18 the real estate broker license of ALEX TRAN and granted the right
19 to a restricted real estate broker license for violations of
20 Sections 10176(a), 10176(i) and 10177(f) of the Code.

21 ///

22 ///

23 ///


24 ///

25 ///

26 ///

27 ///

WHEREFORE, Complainant prays that a hearing be conducted
on the allegations of this Accusation and that upon proof thereof
a decision be rendered imposing disciplinary action against all
licenses and license rights of Respondent, under the Real Estate
Law (Part 1 of Division 4 of the Business and Professions Code)
and for such other and further relief as may be proper under other
provisions of law.


LES R. BETTENCOURT
Deputy Real Estate Commissioner

Dated at San Francisco, California,
this 3rd day of August, 1995.